

Message Text

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C O N F I D E N T I A L SANTIAGO 7523

E.O. 11652: GDS
TAGS: UNGA EAID XM
SUBJECT: MULTILATERAL AFFAIRS: HUMAN RIGHTS PROCEDURES IN THE UN

FROM AMBASSADOR

REF: BOGOTA 7578 AND 7579

1. IN SCANNING REFTEL ACCOUNTS OF ASSISTANT SECRETARY LEWIS' MOST INTERESTING EXCHANGES WITH THE MEXICANS ON UNITED NATIONS ISSUES, WE PICKED UP FROM OUR PAROCHIAL STANDPOINT COMMENTS MADE ON UN HUMAN RIGHTS COMMISSION ACTIVITIES.
2. WE NOTED THAT THE MEXICANS WERE SUSPICIOUS OF CHILEAN PROPOSALS TO CODIFY RULES GOVERNING UNHRC INVESTIGATIONS, AND THAT AMBASSADOR JOVA "INDICATED THAT THE U.S. WAS AGAINST THE CHILEAN PROPOSALS TO RESTRICT THE FREEDOM OF THE COMMISSION". BOTH THE AMBASSADOR AND SECRETARY LEWIS LOOKED TOWARD EXTENSION OF UN HUMAN RIGHTS COMMISSION WORK.

3. WE AGREE WHOLEHEARTEDLY WITH THE GENERAL CONCLUSION.
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WE ALSO RECOGNIZE THAT THE CHILEAN PROPOSAL TO SET UP

PROCEDURAL STANDARDS FOR HUMAN RIGHTS INVESTIGATING BODIES IN THE UN AND OTHER ORGANIZATIONS IS CLEARLY IN GOOD PART SELF-SERVING. FURTHER, WE ALL KNOW THAT IN CLOSED SOCIETIES, IT WILL FREQUENTLY NOT BE POSSIBLE FOR INVESTIGATING BODIES TO OPERATE ON THE BASIS OF THE RULES OF EVIDENCE GOVERNING JUDICIAL PROCEEDINGS.

4. AT THE SAME TIME, THE CHILEAN EXPERIENCE HAS RAISED A POINT FOR WHICH SOME SORT OF ANSWER MUST ULTIMATELY BE PROVIDED. UNHRC WORKING GROUP REPORTS AS WE READ THEM RUN A DANGER OF ACCEPTING AS FACT, AND OUT OF CONTEXT, STATEMENTS MADE BY EXILES OR CURRENT DETAINEES, WHICH MAY BE JUST AS SELF-SERVING AS THOSE OF THE ACCUSED GOVERNMENT. SOME WAY SHOULD BE FOUND, PROBABLY THROUGH PROCEDURAL RULES, TO FACILITATE SOME MINIMUM DEGREE OF BALANCE IN ASSESSING THE POINT OF VIEW OF SUCH A GOVERNMENT, AS AGAINST THE ATTACKS LAUNCHED UPON IT BY ITS ENEMIES OR VICTIMS. AT THE LEAST, THERE SHOULD BE THE FULLEST PROVISION FOR THE RIGHT OF REPLY, AND FOR PUBLICATION OF THE VIEWS OF BOTH SIDES AT THE SAME TIME, NORMALLY IN THE SAME DOCUMENT. SUCH A REQUIREMENT SHOULD NOT HAMPER IMPARTIAL INVESTIGATION.

5. THE ADOPTION OF RULES WHICH WOULD INTER ALIA ENSURE SOME BALANCE WOULD UNDERCUT THE CHILEAN CONTENTION THAT-- THE INVESTIGATING BODY IN THE CHILEAN CASE HAS BEEN AND IN FUTURE WOULD BE, LESS THAN OBJECTIVE IN SHAPING ITS FINDINGS. RECOGNITION OF THE NEED FOR PROCEDURAL FAIRNESS WOULD ALSO BE HELPFUL IN COUNTERACTING THE DISTRUST OF ALL MULTILATERAL HUMAN RIGHTS ACTIVITIES WHICH HAS ARISEN AS A RESULT OF THE UN'S SELECTIVITY IN HIGHLIGHTING SOME HUMAN RIGHTS ABUSES, WHILE REMAINING RESOLUTELY SILENT ON OTHERS.

6. SUGGEST THE DEPARTMENT CONSIDER THE NEED FOR PROCEDURAL GUIDELINES IN UN HUMAN RIGHTS COMMISSION INVESTIGATIONS, AND INCLUDE REFERENCE TO THE SUBJECT IN THE STATEMENTS OF U.S. REPRESENTATIVES IN THE UNHRC AND THE GENERAL ASSEMBLY. OUR CONCLUSIONS ON THIS SUBJECT -- WHATEVER THEY MIGHT BE -- COULD BE SET OFF AGAINST A PARALLEL DISCUSSION ON THE PROCEDURAL OBLIGATIONS OF

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STATES WHOSE HUMAN RIGHTS PRACTICES ARE UNDER INVESTIGATION. IF IT IS OUR LONG-TERM OBJECTIVE TO FOSTER UN REMEDIAL ACTION IN THE HUMAN RIGHTS FIELD, WE MUST SOONER OR LATER BEGIN TO BUILD UP A CODE OF PROCEDURES TO GOVERN IT.

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